

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 237

Introduced by Lathrop, 12.

Read first time January 13, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to juveniles; to adopt the Interstate Compact
2 for Juveniles; to provide for a compact administrator and
3 an advisory council; to eliminate the Interstate Compact
4 on Juveniles and related provisions; and to outright
5 repeal sections 43-1001, 43-1002, 43-1003, 43-1004,
6 43-1005, 43-1006, 43-1007, 43-1008, 43-1009, and 43-1010,
7 Reissue Revised Statutes of Nebraska.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. ARTICLE I

2 PURPOSE

3 The compacting states to this Interstate Compact
4 recognize that each state is responsible for the proper supervision
5 or return of juveniles, delinquents and status offenders who are on
6 probation or parole and who have absconded, escaped or run away
7 from supervision and control and in so doing have endangered their
8 own safety and the safety of others. The compacting states also
9 recognize that each state is responsible for the safe return of
10 juveniles who have run away from home and in doing so have left
11 their state of residence. The compacting states also recognize
12 that Congress, by enacting the Crime Control Act, 4 U.S.C. Section
13 112 (1965), has authorized and encouraged compacts for cooperative
14 efforts and mutual assistance in the prevention of crime.

15 It is the purpose of this compact, through means of
16 joint and cooperative action among the compacting states to: (A)
17 ensure that the adjudicated juveniles and status offenders subject
18 to this compact are provided adequate supervision and services
19 in the receiving state as ordered by the adjudicating judge or
20 parole authority in the sending state; (B) ensure that the public
21 safety interests of the citizens, including the victims of juvenile
22 offenders, in both the sending and receiving states are adequately
23 protected; (C) return juveniles who have run away, absconded or
24 escaped from supervision or control or have been accused of an
25 offense to the state requesting their return; (D) make contracts

1 for the cooperative institutionalization in public facilities in
2 member states for delinquent youth needing special services; (E)
3 provide for the effective tracking and supervision of juveniles;
4 (F) equitably allocate the costs, benefits and obligations of
5 the compacting states; (G) establish procedures to manage the
6 movement between states of juvenile offenders released to the
7 community under the jurisdiction of courts, juvenile departments,
8 or any other criminal or juvenile justice agency which has
9 jurisdiction over juvenile offenders; (H) insure immediate notice
10 to jurisdictions where defined offenders are authorized to travel
11 or to relocate across state lines; (I) establish procedures to
12 resolve pending charges (detainers) against juvenile offenders
13 prior to transfer or release to the community under the terms of
14 this compact; (J) establish a system of uniform data collection
15 on information pertaining to juveniles subject to this compact
16 that allows access by authorized juvenile justice and criminal
17 justice officials; and regular reporting of Compact activities
18 to heads of state executive, judicial, and legislative branches
19 and juvenile and criminal justice administrators; (K) monitor
20 compliance with rules governing interstate movement of juveniles
21 and initiate interventions to address and correct noncompliance;
22 (L) coordinate training and education regarding the regulation of
23 interstate movement of juveniles for officials involved in such
24 activity; and (M) coordinate the implementation and operation of
25 the compact with the Interstate Compact for the Placement of

1 Children, the Interstate Compact for Adult Offender Supervision
2 and other compacts affecting juveniles particularly in those cases
3 where concurrent or overlapping supervision issues arise. It is
4 the policy of the compacting states that the activities conducted
5 by the Interstate Commission created herein are the formation of
6 public policies and therefore are public business. Furthermore, the
7 compacting states shall cooperate and observe their individual and
8 collective duties and responsibilities for the prompt return and
9 acceptance of juveniles subject to the provisions of this compact.
10 The provisions of this compact shall be reasonably and liberally
11 construed to accomplish the purposes and policies of the compact.

12 ARTICLE II

13 DEFINITIONS

14 As used in this compact, unless the context clearly
15 requires a different construction:

16 A. "By-laws" means: those by-laws established by the
17 Interstate Commission for its governance, or for directing or
18 controlling its actions or conduct.

19 B. "Compact Administrator" means: the individual in each
20 compacting state appointed pursuant to the terms of this compact,
21 responsible for the administration and management of the state's
22 supervision and transfer of juveniles subject to the terms of
23 this compact, the rules adopted by the Interstate Commission and
24 policies adopted by the State Council under this compact.

25 C. "Compacting State" means: any state which has enacted

1 the enabling legislation for this compact.

2 D. "Commissioner" means: the voting representative of
3 each compacting state appointed pursuant to Article III of this
4 compact.

5 E. "Court" means: any court having jurisdiction over
6 delinquent, neglected, or dependent children.

7 F. "Deputy Compact Administrator" means: the individual,
8 if any, in each compacting state appointed to act on behalf of
9 a Compact Administrator pursuant to the terms of this compact
10 responsible for the administration and management of the state's
11 supervision and transfer of juveniles subject to the terms of
12 this compact, the rules adopted by the Interstate Commission and
13 policies adopted by the State Council under this compact.

14 G. "Interstate Commission" means: the Interstate
15 Commission for Juveniles created by Article III of this compact.

16 H. "Juvenile" means: any person defined as a juvenile in
17 any member state or by the rules of the Interstate Commission,
18 including:

19 (1) Accused Delinquent - a person charged with an offense
20 that, if committed by an adult, would be a criminal offense;

21 (2) Adjudicated Delinquent - a person found to have
22 committed an offense that, if committed by an adult, would be a
23 criminal offense;

24 (3) Accused Status Offender - a person charged with an
25 offense that would not be a criminal offense if committed by an

1 adult;

2 (4) Adjudicated Status Offender - a person found to have
3 committed an offense that would not be a criminal offense if
4 committed by an adult; and

5 (5) Non-Offender - a person in need of supervision
6 who has not been accused or adjudicated a status offender or
7 delinquent.

8 I. "Non-Compacting state" means: any state which has not
9 enacted the enabling legislation for this compact.

10 J. "Probation or Parole" means: any kind of supervision
11 or conditional release of juveniles authorized under the laws of
12 the compacting states.

13 K. "Rule" means: a written statement by the Interstate
14 Commission promulgated pursuant to Article VI of this compact that
15 is of general applicability, implements, interprets or prescribes
16 a policy or provision of the Compact, or an organizational,
17 procedural, or practice requirement of the Commission, and has
18 the force and effect of statutory law in a compacting state, and
19 includes the amendment, repeal, or suspension of an existing rule.

20 L. "State" means: a state of the United States, the
21 District of Columbia (or its designee), the Commonwealth of Puerto
22 Rico, the U.S. Virgin Island, Guam, American Samoa, and the
23 Northern Marianas Islands.

24 ARTICLE III

25 INTERSTATE COMMISSION FOR JUVENILES

1 A. The compacting states hereby create the "Interstate
2 Commission for Juveniles." The commission shall be a body corporate
3 and joint agency of the compacting states. The commission shall
4 have all the responsibilities, powers and duties set forth herein,
5 and such additional powers as may be conferred upon it by
6 subsequent action of the respective legislatures of the compacting
7 states in accordance with the terms of this compact.

8 B. The Interstate Commission shall consist of
9 commissioners appointed by the appropriate appointing authority
10 in each state pursuant to the rules and requirements of each
11 compacting state and in consultation with the State Council for
12 Interstate Juvenile Supervision created hereunder. The commissioner
13 shall be the compact administrator, deputy compact administrator
14 or designee from that state who shall serve on the Interstate
15 Commission in such capacity under or pursuant to the applicable law
16 of the compacting state.

17 C. In addition to the commissioners who are the voting
18 representatives of each state, the Interstate Commission shall
19 include individuals who are not commissioners, but who are members
20 of interested organizations. Such non-commissioner members must
21 include a member of the national organizations of governors,
22 legislators, state chief justices, attorneys general, Interstate
23 Compact for Adult Offender Supervision, Interstate Compact for the
24 Placement of Children, juvenile justice and juvenile corrections
25 officials, and crime victims. All non-commissioner members of the

1 Interstate Commission shall be ex-officio (non-voting) members.
2 The Interstate Commission may provide in its by-laws for such
3 additional ex-officio (non-voting) members, including members
4 of other national organizations, in such numbers as shall be
5 determined by the commission.

6 D. Each compacting state represented at any meeting
7 of the commission is entitled to one vote. A majority of the
8 compacting states shall constitute a quorum for the transaction of
9 business, unless a larger quorum is required by the by-laws of the
10 Interstate Commission.

11 E. The commission shall meet at least once each calendar
12 year. The chairperson may call additional meetings and, upon the
13 request of a simple majority of the compacting states, shall call
14 additional meetings. Public notice shall be given of all meetings
15 and meetings shall be open to the public.

16 F. The Interstate Commission shall establish an executive
17 committee, which shall include commission officers, members, and
18 others as determined by the by-laws. The executive committee shall
19 have the power to act on behalf of the Interstate Commission during
20 periods when the Interstate Commission is not in session, with
21 the exception of rulemaking and/or amendment to the compact. The
22 executive committee shall oversee the day-to-day activities of the
23 administration of the compact managed by an executive director and
24 Interstate Commission staff; administers enforcement and compliance
25 with the provisions of the compact, its by-laws and rules, and

1 performs such other duties as directed by the Interstate Commission
2 or set forth in the by-laws.

3 G. Each member of the Interstate Commission shall have
4 the right and power to cast a vote to which that compacting
5 state is entitled and to participate in the business and affairs
6 of the Interstate Commission. A member shall vote in person and
7 shall not delegate a vote to another compacting state. However,
8 a commissioner, in consultation with the state council, shall
9 appoint another authorized representative, in the absence of the
10 commissioner from that state, to cast a vote on behalf of the
11 compacting state at a specified meeting. The by-laws may provide
12 for members' participation in meetings by telephone or other means
13 of telecommunication or electronic communication.

14 H. The Interstate Commission's by-laws shall establish
15 conditions and procedures under which the Interstate Commission
16 shall make its information and official records available to the
17 public for inspection or copying. The Interstate Commission may
18 exempt from disclosure any information or official records to
19 the extent they would adversely affect personal privacy rights or
20 proprietary interests.

21 I. Public notice shall be given of all meetings and all
22 meetings shall be open to the public, except as set forth in
23 the Rules or as otherwise provided in the Compact. The Interstate
24 Commission and any of its committees may close a meeting to the
25 public where it determines by two-thirds vote that an open meeting

1 would be likely to:

2 1. Relate solely to the Interstate Commission's internal
3 personnel practices and procedures;

4 2. Disclose matters specifically exempted from disclosure
5 by statute;

6 3. Disclose trade secrets or commercial or financial
7 information which is privileged or confidential;

8 4. Involve accusing any person of a crime, or formally
9 censuring any person;

10 5. Disclose information of a personal nature where
11 disclosure would constitute a clearly unwarranted invasion of
12 personal privacy;

13 6. Disclose investigative records compiled for law
14 enforcement purposes;

15 7. Disclose information contained in or related to
16 examination, operating or condition reports prepared by, or on
17 behalf of or for the use of, the Interstate Commission with respect
18 to a regulated person or entity for the purpose of regulation or
19 supervision of such person or entity;

20 8. Disclose information, the premature disclosure of
21 which would significantly endanger the stability of a regulated
22 person or entity; or

23 9. Specifically relate to the Interstate Commission's
24 issuance of a subpoena, or its participation in a civil action or
25 other legal proceeding.

1 J. For every meeting closed pursuant to this provision,
2 the Interstate Commission's legal counsel shall publicly certify
3 that, in the legal counsel's opinion, the meeting may be closed to
4 the public, and shall reference each relevant exemptive provision.
5 The Interstate Commission shall keep minutes which shall fully
6 and clearly describe all matters discussed in any meeting and
7 shall provide a full and accurate summary of any actions taken,
8 and the reasons therefore, including a description of each of
9 the views expressed on any item and the record of any roll call
10 vote (reflected in the vote of each member on the question).
11 All documents considered in connection with any action shall be
12 identified in such minutes.

13 K. The Interstate Commission shall collect standardized
14 data concerning the interstate movement of juveniles as directed
15 through its rules which shall specify the data to be collected, the
16 means of collection and data exchange and reporting requirements.
17 Such methods of data collection, exchange and reporting shall
18 insofar as is reasonably possible conform to up-to-date technology
19 and coordinate its information functions with the appropriate
20 repository of records.

21 ARTICLE IV

22 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

23 The commission shall have the following powers and
24 duties:

25 1. To provide for dispute resolution among compacting

1 states.

2 2. To promulgate rules to effect the purposes and
3 obligations as enumerated in this compact, which shall have the
4 force and effect of statutory law and shall be binding in the
5 compacting states to the extent and in the manner provided in this
6 compact.

7 3. To oversee, supervise and coordinate the interstate
8 movement of juveniles subject to the terms of this compact and any
9 by-laws adopted and rules promulgated by the Interstate Commission.

10 4. To enforce compliance with the compact provisions, the
11 rules promulgated by the Interstate Commission, and the by-laws,
12 using all necessary and proper means, including but not limited to
13 the use of judicial process.

14 5. To establish and maintain offices which shall be
15 located within one or more of the compacting states.

16 6. To purchase and maintain insurance and bonds.

17 7. To borrow, accept, hire or contract for services of
18 personnel.

19 8. To establish and appoint committees and hire staff
20 which it deems necessary for the carrying out of its functions
21 including, but not limited to, an executive committee as required
22 by Article III which shall have the power to act on behalf of
23 the Interstate Commission in carrying out its powers and duties
24 hereunder.

25 9. To elect or appoint such officers, attorneys,

1 employees, agents, or consultants, and to fix their compensation,
2 define their duties and determine their qualifications; and to
3 establish the Interstate Commission's personnel policies and
4 programs relating to, inter alia, conflicts of interest, rates of
5 compensation, and qualifications of personnel.

6 10. To accept any and all donations and grants of money,
7 equipment, supplies, materials, and services, and to receive,
8 utilize, and dispose of it.

9 11. To lease, purchase, accept contributions or donations
10 of, or otherwise to own, hold, improve or use any property, real,
11 personal, or mixed.

12 12. To sell, convey, mortgage, pledge, lease, exchange,
13 abandon, or otherwise dispose of any property, real, personal or
14 mixed.

15 13. To establish a budget and make expenditures and levy
16 dues as provided in Article VIII of this compact.

17 14. To sue and be sued.

18 15. To adopt a seal and by-laws governing the management
19 and operation of the Interstate Commission.

20 16. To perform such functions as may be necessary or
21 appropriate to achieve the purposes of this compact.

22 17. To report annually to the legislatures, governors,
23 judiciary, and state councils of the compacting states concerning
24 the activities of the Interstate Commission during the preceding
25 year. Such reports shall also include any recommendations that may

1 have been adopted by the Interstate Commission.

2 18. To coordinate education, training and public
3 awareness regarding the interstate movement of juveniles for
4 officials involved in such activity.

5 19. To establish uniform standards of the reporting,
6 collecting and exchanging of data.

7 20. The Interstate Commission shall maintain its
8 corporate books and records in accordance with the by-laws.

9 ARTICLE V

10 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

11 Section A. By-laws

12 1. The Interstate Commission shall, by a majority of the
13 members present and voting, within twelve months after the first
14 Interstate Commission meeting, adopt by-laws to govern its conduct
15 as may be necessary or appropriate to carry out the purposes of the
16 compact, including, but not limited to:

17 a. Establishing the fiscal year of the Interstate
18 Commission;

19 b. Establishing an executive committee and such other
20 committees as may be necessary;

21 c. Provide for the establishment of committees governing
22 any general or specific delegation of any authority or function of
23 the Interstate Commission;

24 d. Providing reasonable procedures for calling and
25 conducting meetings of the Interstate Commission, and ensuring

1 reasonable notice of each such meeting;

2 e. Establishing the titles and responsibilities of the
3 officers of the Interstate Commission;

4 f. Providing a mechanism for concluding the operations of
5 the Interstate Commission and the return of any surplus funds that
6 may exist upon the termination of the Compact after the payment
7 and/or reserving of all of its debts and obligations;

8 g. Providing "start-up" rules for initial administration
9 of the compact; and

10 h. Establishing standards and procedures for compliance
11 and technical assistance in carrying out the compact.

12 Section B. Officers and Staff

13 1. The Interstate Commission shall, by a majority of the
14 members, elect annually from among its members a chairperson and
15 a vice-chairperson, each of whom shall have such authority and
16 duties as may be specified in the by-laws. The chairperson or, in
17 the chairperson's absence or disability, the vice-chairperson shall
18 preside at all meetings of the Interstate Commission. The officers
19 so elected shall serve without compensation or remuneration
20 from the Interstate Commission; provided that, subject to the
21 availability of budgeted funds, the officers shall be reimbursed
22 for any ordinary and necessary costs and expenses incurred by them
23 in the performance of their duties and responsibilities as officers
24 of the Interstate Commission.

25 2. The Interstate Commission shall, through its executive

1 committee, appoint or retain an executive director for such period,
2 upon such terms and conditions and for such compensation as the
3 Interstate Commission may deem appropriate. The executive director
4 shall serve as secretary to the Interstate Commission, but shall
5 not be a Member and shall hire and supervise such other staff as
6 may be authorized by the Interstate Commission.

7 Section C. Qualified Immunity, Defense and
8 Indemnification

9 1. The Commission's executive director and employees
10 shall be immune from suit and liability, either personally or in
11 their official capacity, for any claim for damage to or loss of
12 property or personal injury or other civil liability caused or
13 arising out of or relating to any actual or alleged act, error, or
14 omission that occurred, or that such person had a reasonable basis
15 for believing occurred within the scope of Commission employment,
16 duties, or responsibilities; provided, that any such person shall
17 not be protected from suit or liability for any damage, loss,
18 injury, or liability caused by the intentional or willful and
19 wanton misconduct of any such person.

20 2. The liability of any commissioner, or the employee or
21 agent of a commissioner, acting within the scope of such person's
22 employment or duties for acts, errors, or omissions occurring
23 within such person's state may not exceed the limits of liability
24 set forth under the Constitution and laws of that state for state
25 officials, employees, and agents. Nothing in this subsection shall

1 be construed to protect any such person from suit or liability for
2 any damage, loss, injury, or liability caused by the intentional or
3 willful and wanton misconduct of any such person.

4 3. The Interstate Commission shall defend the executive
5 director or the employees or representatives of the Interstate
6 Commission and, subject to the approval of the Attorney General
7 of the state represented by any commissioner of a compacting
8 state, shall defend such commissioner or the commissioner's
9 representatives or employees in any civil action seeking to impose
10 liability arising out of any actual or alleged act, error or
11 omission that occurred within the scope of Interstate Commission
12 employment, duties or responsibilities, or that the defendant
13 had a reasonable basis for believing occurred within the scope
14 of Interstate Commission employment, duties, or responsibilities,
15 provided that the actual or alleged act, error, or omission did
16 not result from intentional or wilful and wanton misconduct on the
17 part of such person.

18 4. The Interstate Commission shall indemnify and hold
19 the commissioner of a compacting state, or the commissioner's
20 representatives or employees, or the Interstate Commission's
21 representatives or employees, harmless in the amount of any
22 settlement or judgment obtained against such persons arising out
23 of any actual or alleged act, error, or omission that occurred
24 within the scope of Interstate Commission employment, duties, or
25 responsibilities, or that such persons had a reasonable basis

1 for believing occurred within the scope of Interstate Commission
2 employment, duties, or responsibilities, provided that the actual
3 or alleged act, error, or omission did not result from intentional
4 or willful and wanton misconduct on the part of such persons.

5 ARTICLE VI

6 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

7 A. The Interstate Commission shall promulgate and publish
8 rules in order to effectively and efficiently achieve the purposes
9 of the compact.

10 B. Rulemaking shall occur pursuant to the criteria
11 set forth in this article and the by-laws and rules adopted
12 pursuant thereto. Such rulemaking shall substantially conform to
13 the principles of the "Model State Administrative Procedures Act,"
14 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such
15 other administrative procedures act, as the Interstate Commission
16 deems appropriate consistent with due process requirements under
17 the U.S. Constitution as now or hereafter interpreted by the U.S.
18 Supreme Court. All rules and amendments shall become binding as of
19 the date specified, as published with the final version of the rule
20 as approved by the Commission.

21 C. When promulgating a rule, the Interstate Commission
22 shall, at a minimum:

23 1. publish the proposed rule's entire text stating the
24 reason(s) for that proposed rule;

25 2. allow and invite any and all persons to submit written

1 data, facts, opinions and arguments, which information shall be
2 added to the record, and be made publicly available;

3 3. provide an opportunity for an informal hearing if
4 petitioned by ten (10) or more persons; and

5 4. promulgate a final rule and its effective date, if
6 appropriate, based on input from state or local officials, or
7 interested parties.

8 D. Allow, not later than sixty days after a rule is
9 promulgated, any interested person to file a petition in the
10 United States District Court for the District of Columbia or
11 in the Federal District Court where the Interstate Commission's
12 principal office is located for judicial review of such rule.
13 If the court finds that the Interstate Commission's action is
14 not supported by substantial evidence in the rulemaking record,
15 the court shall hold the rule unlawful and set it aside.
16 For purposes of this subsection, evidence is substantial if it
17 would be considered substantial evidence under the Model State
18 Administrative Procedures Act.

19 E. If a majority of the legislatures of the compacting
20 states rejects a rule, those states may, by enactment of a statute
21 or resolution in the same manner used to adopt the compact, cause
22 that such rule shall have no further force and effect in any
23 compacting state.

24 F. The existing rules governing the operation of the
25 Interstate Compact on Juveniles superceded by this act shall be

1 null and void twelve (12) months after the first meeting of the
2 Interstate Commission created hereunder.

3 G. Upon determination by the Interstate Commission that
4 a state-of-emergency exists, it may promulgate an emergency rule
5 which shall become effective immediately upon adoption, provided
6 that the usual rulemaking procedures provided hereunder shall be
7 retroactively applied to said rule as soon as reasonably possible,
8 but no later than ninety (90) days after the effective date of the
9 emergency rule.

10 ARTICLE VII

11 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE
12 INTERSTATE COMMISSION

13 Section A. Oversight

14 1. The Interstate Commission shall oversee the
15 administration and operations of the interstate movement of
16 juveniles subject to this compact in the compacting states and
17 shall monitor such activities being administered in non-compacting
18 states which may significantly affect compacting states.

19 2. The courts and executive agencies in each compacting
20 state shall enforce this compact and shall take all actions
21 necessary and appropriate to effectuate the compact's purposes and
22 intent. The provisions of this compact and the rules promulgated
23 hereunder shall be received by all the judges, public officers,
24 commissions, and departments of the state government as evidence of
25 the authorized statute and administrative rules. All courts shall

1 take judicial notice of the compact and the rules. In any judicial
2 or administrative proceeding in a compacting state pertaining
3 to the subject matter of this compact which may affect the
4 powers, responsibilities or actions of the Interstate Commission,
5 it shall be entitled to receive all service of process in any such
6 proceeding, and shall have standing to intervene in the proceeding
7 for all purposes.

8 Section B. Dispute Resolution

9 1. The compacting states shall report to the Interstate
10 Commission on all issues and activities necessary for the
11 administration of the compact as well as issues and activities
12 pertaining to compliance with the provisions of the compact and its
13 by-laws and rules.

14 2. The Interstate Commission shall attempt, upon the
15 request of a compacting state, to resolve any disputes or other
16 issues which are subject to the compact and which may arise among
17 compacting states and between compacting and non-compacting states.
18 The commission shall promulgate a rule providing for both mediation
19 and binding dispute resolution for disputes among the compacting
20 states.

21 3. The Interstate Commission, in the reasonable exercise
22 of its discretion, shall enforce the provisions and rules of this
23 compact using any or all means set forth in Article XI of this
24 compact.

25 ARTICLE VIII

1 FINANCE

2 A. The Interstate Commission shall pay or provide for
3 the payment of the reasonable expenses of its establishment,
4 organization and ongoing activities.

5 B. The Interstate Commission shall levy on and collect an
6 annual assessment from each compacting state to cover the cost of
7 the internal operations and activities of the Interstate Commission
8 and its staff which must be in a total amount sufficient to cover
9 the Interstate Commission's annual budget as approved each year.
10 The aggregate annual assessment amount shall be allocated based
11 upon a formula to be determined by the Interstate Commission,
12 taking into consideration the population of each compacting state
13 and the volume of interstate movement of juveniles in each
14 compacting state and shall promulgate a rule binding upon all
15 compacting states which governs said assessment.

16 C. The Interstate Commission shall not incur any
17 obligations of any kind prior to securing the funds adequate to
18 meet the same; nor shall the Interstate Commission pledge the
19 credit of any of the compacting states, except by and with the
20 authority of the compacting state.

21 D. The Interstate Commission shall keep accurate accounts
22 of all receipts and disbursements. The receipts and disbursements
23 of the Interstate Commission shall be subject to the audit and
24 accounting procedures established under its by-laws. However, all
25 receipts and disbursements of funds handled by the Interstate

1 Commission shall be audited yearly by a certified or licensed
2 public accountant and the report of the audit shall be included in
3 and become part of the annual report of the Interstate Commission.

4 ARTICLE IX

5 THE STATE COUNCIL

6 Each member state shall create a State Council for
7 Interstate Juvenile Supervision. While each state may determine the
8 membership of its own state council, its membership must include
9 at least one representative from the legislative, judicial, and
10 executive branches of government, victims groups, and the compact
11 administrator, deputy compact administrator or designee. Each
12 compacting state retains the right to determine the qualifications
13 of the compact administrator or deputy compact administrator. Each
14 state council will advise and may exercise oversight and advocacy
15 concerning that state's participation in Interstate Commission
16 activities and other duties as may be determined by that state,
17 including but not limited to, development of policy concerning
18 operations and procedures of the compact within that state.

19 ARTICLE X

20 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

21 A. Any state, the District of Columbia (or its designee),
22 the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
23 American Samoa, and the Northern Marianas Islands as defined in
24 Article II of this compact is eligible to become a compacting
25 state.

1 B. The compact shall become effective and binding upon
2 legislative enactment of the compact into law by no less than 35
3 of the states. The initial effective date shall be the later of
4 July 1, 2004 or upon enactment into law by the 35th jurisdiction.
5 Thereafter it shall become effective and binding as to any other
6 compacting state upon enactment of the compact into law by that
7 state. The governors of non-member states or their designees shall
8 be invited to participate in the activities of the Interstate
9 Commission on a nonvoting basis prior to adoption of the compact by
10 all states and territories of the United States.

11 C. The Interstate Commission may propose amendments to
12 the compact for enactment by the compacting states. No amendment
13 shall become effective and binding upon the Interstate Commission
14 and the compacting states unless and until it is enacted into law
15 by unanimous consent of the compacting states.

16 ARTICLE XI

17 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

18 Section A. Withdrawal

19 1. Once effective, the compact shall continue in
20 force and remain binding upon each and every compacting state;
21 provided that a compacting state may withdraw from the compact by
22 specifically repealing the statute which enacted the compact into
23 law.

24 2. The effective date of withdrawal is the effective date
25 of the repeal.

1 3. The withdrawing state shall immediately notify
2 the chairperson of the Interstate Commission in writing upon
3 the introduction of legislation repealing this compact in the
4 withdrawing state. The Interstate Commission shall notify the other
5 compacting states of the withdrawing state's intent to withdraw
6 within sixty days of its receipt thereof.

7 4. The withdrawing state is responsible for all
8 assessments, obligations and liabilities incurred through the
9 effective date of withdrawal, including any obligations, the
10 performance of which extend beyond the effective date of
11 withdrawal.

12 5. Reinstatement following withdrawal of any compacting
13 state shall occur upon the withdrawing state reenacting the compact
14 or upon such later date as determined by the Interstate Commission.

15 Section B. Technical Assistance, Fines, Suspension,
16 Termination and Default

17 1. If the Interstate Commission determines that any
18 compacting state has at any time defaulted in the performance of
19 any of its obligations or responsibilities under this compact, or
20 the by-laws or duly promulgated rules, the Interstate Commission
21 may impose any or all of the following penalties:

22 a. Remedial training and technical assistance as directed
23 by the Interstate Commission;

24 b. Alternative Dispute Resolution;

25 c. Fines, fees, and costs in such amounts as are deemed

1 to be reasonable as fixed by the Interstate Commission; and
2 d. Suspension or termination of membership in the
3 compact, which shall be imposed only after all other reasonable
4 means of securing compliance under the by-laws and rules have been
5 exhausted and the Interstate Commission has therefore determined
6 that the offending state is in default. Immediate notice of
7 suspension shall be given by the Interstate Commission to the
8 Governor, the Chief Justice or the Chief Judicial Officer of
9 the state, the majority and minority leaders of the defaulting
10 state's legislature, and the state council. The grounds for default
11 include, but are not limited to, failure of a compacting state
12 to perform such obligations or responsibilities imposed upon it
13 by this compact, the by-laws, or duly promulgated rules and any
14 other grounds designated in commission by-laws and rules. The
15 Interstate Commission shall immediately notify the defaulting state
16 in writing of the penalty imposed by the Interstate Commission
17 and of the default pending a cure of the default. The commission
18 shall stipulate the conditions and the time period within which the
19 defaulting state must cure its default. If the defaulting state
20 fails to cure the default within the time period specified by
21 the commission, the defaulting state shall be terminated from the
22 compact upon an affirmative vote of a majority of the compacting
23 states and all rights, privileges and benefits conferred by this
24 compact shall be terminated from the effective date of termination.
25 2. Within sixty days of the effective date of termination

1 of a defaulting state, the Commission shall notify the Governor,
2 the Chief Justice or Chief Judicial Officer, the Majority and
3 Minority Leaders of the defaulting state's legislature, and the
4 state council of such termination.

5 3. The defaulting state is responsible for all
6 assessments, obligations and liabilities incurred through the
7 effective date of termination including any obligations, the
8 performance of which extends beyond the effective date of
9 termination.

10 4. The Interstate Commission shall not bear any costs
11 relating to the defaulting state unless otherwise mutually
12 agreed upon in writing between the Interstate Commission and the
13 defaulting state.

14 5. Reinstatement following termination of any compacting
15 state requires both a reenactment of the compact by the defaulting
16 state and the approval of the Interstate Commission pursuant to the
17 rules.

18 Section C. Judicial Enforcement

19 The Interstate Commission may, by majority vote of the
20 members, initiate legal action in the United States District
21 Court for the District of Columbia or, at the discretion of
22 the Interstate Commission, in the federal district where the
23 Interstate Commission has its offices, to enforce compliance with
24 the provisions of the compact, its duly promulgated rules and
25 by-laws, against any compacting state in default. In the event

1 judicial enforcement is necessary the prevailing party shall
2 be awarded all costs of such litigation including reasonable
3 attorney's fees.

4 Section D. Dissolution of Compact

5 1. The compact dissolves effective upon the date of
6 the withdrawal or default of the compacting state, which reduces
7 membership in the compact to one compacting state.

8 2. Upon the dissolution of this compact, the compact
9 becomes null and void and shall be of no further force or effect,
10 and the business and affairs of the Interstate Commission shall be
11 concluded and any surplus funds shall be distributed in accordance
12 with the by-laws.

13 ARTICLE XII

14 SEVERABILITY AND CONSTRUCTION

15 A. The provisions of this compact shall be severable,
16 and if any phrase, clause, sentence or provision is deemed
17 unenforceable, the remaining provisions of the compact shall be
18 enforceable.

19 B. The provisions of this compact shall be liberally
20 construed to effectuate its purposes.

21 ARTICLE XIII

22 BINDING EFFECT OF COMPACT AND OTHER LAWS

23 Section A. Other Laws

24 1. Nothing herein prevents the enforcement of any other
25 law of a compacting state that is not inconsistent with this

1 compact.

2 2. All compacting states' laws other than state
3 Constitutions and other interstate compacts conflicting with this
4 compact are superseded to the extent of the conflict.

5 Section B. Binding Effect of the Compact

6 1. All lawful actions of the Interstate Commission,
7 including all rules and by-laws promulgated by the Interstate
8 Commission, are binding upon the compacting states.

9 2. All agreements between the Interstate Commission and
10 the compacting states are binding in accordance with their terms.

11 3. Upon the request of a party to a conflict over
12 meaning or interpretation of Interstate Commission actions, and
13 upon a majority vote of the compacting states, the Interstate
14 Commission may issue advisory opinions regarding such meaning or
15 interpretation.

16 4. In the event any provision of this compact exceeds the
17 constitutional limits imposed on the legislature of any compacting
18 state, the obligations, duties, powers or jurisdiction sought to be
19 conferred by such provision upon the Interstate Commission shall
20 be ineffective and such obligations, duties, powers or jurisdiction
21 shall remain in the compacting state and shall be exercised by
22 the agency thereof to which such obligations, duties, powers or
23 jurisdiction are delegated by law in effect at the time this
24 compact becomes effective.

25 Sec. 2. The following sections are outright repealed:

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1 Sections 43-1001, 43-1002, 43-1003, 43-1004, 43-1005, 43-1006,
2 43-1007, 43-1008, 43-1009, and 43-1010, Reissue Revised Statutes of
3 Nebraska.